



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|------------------------|------------------|
| 09/648,965 | 08/25/2000 | Leslie N. Keller | 0007056-0032/P5034/RHS | 5999 |

7590

05/15/2003

J D Harriman II
Coudert Brothers
333 South Hope Street
23rd Floor
Los Angeles, CA 90071

EXAMINER

CHANG, ERIC

ART UNIT

PAPER NUMBER

2185

DATE MAILED: 05/15/2003

2

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/648,965

Applicant(s)

KELLER, LESLIE N.

Examiner

Eric Chang

Art Unit

2185

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 August 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-19 are pending.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because of undue length. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C.

Art Unit: 2185

122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1-19 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by U.S. Patent 6,477,629 to Goshey et al.

6. As to claim 1, Goshey discloses a boot system comprising a processor and a first and a second boot device coupled to said processor [col. 2, lines 58-62]. Goshey teaches a hard drive to boot from, and a back-up peripheral device that may also be booted from.

7. As to claim 2, Goshey discloses a switching mechanism configured to cause said processor to become disassociated with said first boot device and associate with said second boot device when it is determined that said first boot device is inoperable [col. 2, lines 58-62]. Goshey teaches determining if the hard drive is inoperable, and subsequently switching to the alternate boot device.

8. As to claims 3, 5 and 16, Goshey discloses a mirroring mechanism wherein a first data on first boot device is copied to the second boot device [col. 2, lines 49-68]. Goshey teaches data from the hard drive is copied to the peripheral storage device to create a back-up copy of said data. Furthermore, Goshey teaches the data is copied when it has been modified, in order to incrementally mirror the data without copying the entire contents of the hard drive [col. 11, lines 24-36], substantially as claimed.

9. As to claims 4 and 17, Goshey discloses the switching mechanism is configured to allow removal of said first or second boot device [col. 10, lines 11-23]. Goshey further discloses that the replacement may be necessitated by device failure [col. 10, lines 11-23]. Goshey teaches that one of the boot devices may experience failure, and that it may be repaired or replaced, substantially as claimed.

10. As to claims 6-9, Goshey discloses the data comprises an operating system [col. 7, lines 44-52]. It is well known in the art that an operating system may comprise UNIX, Windows, or MacOS, substantially as claimed.

11. As to claims 10-11 and 18, Goshey discloses a first and a second port controller coupled to the processor for transmitting communication via a routing mechanism [col. 5, lines 4-12, and col. 7, lines 8-19]. Goshey teaches the processor is coupled to a number of port controllers, for example, comprising an IDE and a SCSI adaptor and associated buses.

12. As to claims 12-13 and 19, Goshey discloses the all of the limitations of the claim, but does not teach that the system comprises a first and a second power source for powering said system. Nonetheless, Goshey teaches that the system comprises a personal computer [col. 1, lines 21-32], and it is well known in the art to use a back-up power supply such as a UPS in order to reduce the likelihood of loss of productivity, substantially as claimed.

Art Unit: 2185

13. As to claim 14, Goshey discloses a method for booting a computer system comprising a processor and a first and a second boot device coupled to said processor [col. 2, lines 58-62], wherein the method comprises determining whether to associate said processor with said first or second boot device [col. 2, lines 58-62].

14. As to claim 15, Goshey discloses the switching mechanism is configured to allow removal of said first or second boot device [col. 10, lines 11-23]. Goshey further discloses that the replacement of a boot device further comprises copying modified files between the first and the second boot devices in order to maintain the latest copies of the data [col. 17, lines 1-5], such as when an operating system is upgraded, substantially as claimed.

Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Chang whose telephone number is (703) 305-4612. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Lee can be reached on (703) 305-9717. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Application/Control Number: 09/648,965

Page 6

Art Unit: 2185

ec

May 8, 2003

A handwritten signature in black ink, consisting of a large, stylized 'T' followed by a horizontal line that curves upwards at the end.

THOMAS LEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100